

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.

One Financial Center
Boston, Massachusetts 02111

Cameron F. Kerry

617 542 6000
617 542 2241 *fax*

Direct dial 617 348 1671
cfkerry@mintz.com

January 7, 2002

BY HAND

Mary L. Cottrell, Secretary
Department of Telecommunications & Energy
Commonwealth of Massachusetts
One South Station, 2nd Floor
Boston, Massachusetts 02110

Re: Fiber Technologies Networks, L.L.C. v. Town of Shrewsbury Electric
Light Plant, D.T.E. 01-70

Dear Ms. Cottrell:

I am writing in connection with the Supplemental Responses filed by Shrewsbury's Electric Light Plant (SELP) on January 4, 2002. SELP's Supplemental Responses to Fibertech 3-4 and Fibertech 3-9 candidly acknowledge that copies of the legal opinion of K.Barna, which is the subject of Fibertech's November 28, 2001 Motion to Compel, were furnished not only to SELP commissioners and employees, but also to the Shrewsbury Town Manager and the Chair of the Shrewsbury Board of Selectmen. Copies of these responses are attached.

Fibertech's Motion to Compel demonstrates that SELP and the Town of Shrewsbury (the "Town") are separate and distinct entities, and therefore, the Town is a third party with respect to waiver of the attorney-client privilege and the work-product privilege. Fibertech's Motion to Compel discusses that because the "substance" of Barna's legal opinion was disclosed to the Town, SELP has waived any privilege claim it may have had. SELP's Supplemental Responses to Fibertech 3-4 and Fibertech 3-9 reveal that SELP's disclosure to a third party went beyond just the substance of Mr. Barna's legal opinion and included actual copies of this opinion.

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C.

Mary L. Cottrell, Secretary

January 7, 2002

Page 2

Because of this disclosure of Barna's legal opinion to third parties outside any scope of privilege within SELP, SELP has clearly waived any claim of attorney-client privilege and work-product privilege.

Respectfully submitted,

Cameron F. Kerry

CFK:jdn

cc: Service List

TRA 1613965v2